

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates.

Application 04-09-019  
(Filed September 20, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING REQUIRING  
TESTIMONY REGARDING THE MOTION FOR INTERIM RATE RELIEF  
AND ESTABLISHING A SCHEDULE AND PROCESS FOR THIS CASE**

**1. Summary**

This ruling sets a prehearing conference on October 5, 2005, 10:00 a.m., at 505 Van Ness Avenue, San Francisco, California. This ruling discusses the issues in the case and establishes a preliminary procedural schedule to respond to the Motion for Interim Rate Relief.

**2. Procedural Background**

On September 20, 2004, California-American Water Company (Cal-Am) filed this application which, among other things, seeks to increase rates to fund a proposed Coastal Water Project. The Coastal Water Project includes a desalination facility located at Moss Landing, associated infrastructure to transport the water produced at Moss Landing to Cal-Am's Monterey service territory, and an aquifer storage reinjection component. Because the application did not include a Proponent's Environmental Assessment (PEA), a necessary

precursor to evaluating the merits of the proposed project and associated proposed rate increase, the Administrative Law Judge suspended the procedural process for this case until such time as the PEA was filed.

On July 14, 2005, Cal-Am filed an amended application, its PEA, and a Motion for Interim Rate Relief. Cal-Am concurrently began the Public Notice process required by Rule 24 of the Commission's Rules of Practice and Procedure. On July 29, 2005, the Office of Ratepayer Advocates (ORA) and the Monterey County Water Resources Agency (MCWRA) filed responses to the motion. On August 8, 2005, Cal-Am filed a reply to the responses, which was supplemented on August 10, 2005. On August 15, 2005, several parties filed protests to Cal-Am's amended application. On August 25, 2005, Cal-Am filed a reply to the protests.

### **3. Issues Raised by This Case**

This case is somewhat unique in the scheduling and procedural issues that it presents. No party thus far disputes that there is a need to find an alternative to replace 10,730 acre feet of Cal-Am's water supplies that are drawn from the Carmel River, however, what that solution should be is in significant dispute, and thus the specific cost to ratepayers is speculative. Because the cost of the investment proposed for the Coastal Water Project is so large in comparison to Cal-Am's existing Monterey rate base, Cal-Am is seeking pre-approval of the Coastal Water Project and associated ratemaking treatment. Cal-Am has also proposed in its Motion that new rate elements be approved in order to begin pre-collecting revenues to offset future costs associated with solving the water supply situation, in order to mitigate rate shock that would occur if the Coastal Water Project were constructed. Thus, there are two distinct components of the

application at this point: (1) selection of a water supply solution and (2) interim rate relief.

### **3.1. Selection of a Water Supply Solution**

Cal-Am's proposal to construct the Coastal Water Project is subject to environmental review under the California Environmental Quality Act (CEQA). Cal-Am has submitted its PEA which the Commission reviews for completeness. The Commission conducts its own independent environmental analysis of the proposed project and alternatives and will ultimately prepare a Final Environmental Impact Report (FEIR). The Commission's Energy Division expects to complete its selection of an environmental consultant in October 2005 to review the PEA, provide additional environmental analysis pursuant to CEQA, and prepare additional documentations as required. The CEQA review will evaluate the proposed project and other alternatives that can address the water supply situation, as well as a no project alternative.<sup>1</sup> The FEIR will identify the environmentally superior project or alternative to meet the identified water supply need. The FEIR is an important informational document that the Commission will utilize in deciding whether to grant Cal-Am's request. Upon completion of the FEIR, the Commission will be in a position to effectively evaluate the various alternatives presented, weigh the costs and benefits offered by different alternatives, assess the environmental impacts of the different alternatives, and ultimately approve ratepayer funding for a water supply solution in Monterey.

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<sup>1</sup> The CEQA review is expected to include public meetings in the local project area to provide information about the proposed project and solicit local input on the project scope, potential alternatives, and potential environmental impacts.

Until the CEQA process is further advanced, it does not make sense to have parties present testimony about which water solution we should adopt. Any schedule for deciding on what water solution to approve is necessarily tentative at this time. As the CEQA review progresses, I will issue a ruling establishing a schedule for this portion of the proceeding.

### **3.2. Interim Rate Relief**

The other element of Cal-Am's application is the Motion for Interim Rate Relief. Cal-Am argues that in order to mitigate the rate shock that would occur once the proposed Coastal Water Project becomes used and useful, it is necessary to begin collecting revenues now to lower the project's base cost that will otherwise come into service all at once. ORA and MCWRA argue that until it is known whether the proposed Coastal Water Project will be approved, it is premature to begin recovering any costs from ratepayers.

Cal-Am makes four specific "Special Requests":

1. Establish a flat fee/meter/month, effective 2007-2013, to recover the costs booked to its existing pre-construction cost memorandum account through December 31, 2006.<sup>2</sup> Cal-Am estimates that the surcharge would be \$5.25 per month per 5/8" meter, but the motion does not specify when or how this rate would be finalized.
2. Establish a \$2.00 per unit High Block Surcharge, effective January 1, 2007 through December 31, 2008 or until the Coastal Water Project comes online.

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<sup>2</sup> D.03-09-022 authorized Cal-Am to establish a memorandum account to record all costs related to the Coastal Water Project. The costs booked to the account earn the 90-day commercial paper rate.

3. Establish a New Service Connection Fee, effective immediately, of \$12,000 per acre foot of water necessary for the new connection.
4. Establish a Pre-Completion Surcharge of \$2.20/Ccf in 2007 and \$3.83/Ccf in 2008 to collect carrying costs for the Coastal Water Project.

Special Requests 2, 3, and 4 are designed to begin collecting revenue prior to the time the project is deemed used and useful to offset costs associated with construction of the Coastal Water Project. Special Request 1 is designed to recover costs incurred prior to beginning construction that are recorded in the existing memorandum account, which have not yet been reviewed for reasonableness. All Special Requests describe the ratemaking approach and how the revenue would be booked.

### **3.2.1. Special Request 1**

Special Request 1 involves recovery from ratepayers of costs that are already being incurred by Cal-Am and recorded in a memorandum account. As ORA points out, the reasonableness of the recorded expenditures is a determination that requires additional facts to assess. ORA has begun discovery to evaluate the reasonableness of this request.

As a preliminary matter, Cal-Am should prepare testimony in support of Special Request 1. In particular, testimony should address the reasonableness of the expenditures recorded in the memorandum account that are incurred through the end of 2005 and the forecast of expenditures through 2006. The testimony shall propose tariff language to implement the proposed surcharge and a process by which the reasonableness of 2006 recorded costs will be assessed. Based on this testimony, Cal-Am should propose a specific rate for the surcharge it proposes. Any party may prepare testimony in response to

Cal-Am's testimony. The Commission can then effectively evaluate the reasonableness of the requested surcharge. At the prehearing conference we can discuss further the scope of the testimony expected for Special Request 1.

The proposed schedule described below will allow for further development of these facts and sufficient time for the Commission to determine the reasonableness of the request before the desired 2007 implementation date. It is also possible that once Cal-Am has prepared its testimony and the parties have begun discovery on the recorded costs, that the amount of recorded cost about which parties disagree on reasonableness will be significantly narrowed. After Cal-Am serves testimony in support of the reasonableness of the costs in Special Request 1, we can consider accelerating the schedule.

### **3.2.2. Special Requests 2, 3, and 4**

Because Special Requests 2-4 are intended to begin collecting revenue to offset future costs, there is no way to assess whether the amounts proposed are reasonable at this time. ORA and MCWRA would have the Commission not authorize recovery because the specific solution to Monterey's water problem is uncertain. However, it is certain that a solution is required, and the solution will likely have some cost. In my opinion, given the specific facts of this case and the hopefully unique circumstances that placed Cal-Am in this situation, it makes sense to consider ways to begin collecting revenue to offset future costs that Cal-Am's Monterey ratepayers will incur to solve their water problem. In addition, we should consider whether to begin collection of Special Requests 2 and 4 earlier than 2007.

Although Cal-Am has proposed to record the revenues collected from Special Requests 2-4 as contributions to offset construction costs, I suggest that it is more fruitful for us to consider any collected revenues as revenues collected to

offset the costs of whatever water supply solution is ultimately approved. For example, instead of recording the revenues specifically as a contribution to offset construction costs, Cal-Am should consider modifying its approach to record the collected revenues into an account specifically established to solve the SWRCB (State Water Resources Control Board) Order 95-10 situation. Such an approach will better reflect the uncertainty of what water supply solution will ultimately be approved. The testimony required below should address this suggested approach.

Cal-Am identifies that Special Request 2 is expected to collect \$1.042 million per year, but no forecast of incremental revenues is set forth for Special Requests 3 and 4. Cal-Am should serve testimony that describes the forecasted incremental revenues for each Special Request. In addition, Cal-Am should describe the tax affects of pre-collecting revenues in the manner it has proposed or the alternative I have suggested, prepare proposed tariffs to affect each Special Request and associated ratemaking treatment, including proposed tariffs to establish the ratemaking accounts to record collected revenues. It is unclear from Cal-Am's motion how its Special Requests 2-4 would affect low income ratepayers in the Monterey service territory. The testimony should include an analysis, based on at least one year's worth of consumption history, of how Cal-Am's customers currently enrolled in the Program for Alternate Rates would be affected by these Special Requests.

With the receipt of the testimony described above and parties' responsive testimony, the Commission should have sufficient information to evaluate the inter-temporal affects of beginning collection of expected future costs now, the impacts on low income customers, and other relevant policy and factual impacts of this proposal.

#### 4. Proposed Schedule

The below schedule is a tentative one, pending discussion at the scheduled prehearing conference on October 5, 2005 at the Commission headquarters in San Francisco. At the prehearing conference, parties should be prepared to discuss the issues identified in this ruling, whether additional testimony from Cal-Am beyond what is described by this ruling is necessary before testimony is served by other parties. In addition, I would like the parties to consider whether it would be useful for the parties to meet and confer in early 2006 to establish a framework for reviewing the reasonableness of recorded pre-construction costs. This is a subject we will discuss at the prehearing conference. Parties should come prepared to discuss scheduling for service of testimony and evidentiary hearings, including potential witness availability for the Special Request 2-4 phase.

<b>Event</b>	<b>Date</b>
Prehearing Conference	October 5, 2005
Testimony by Cal-Am in Support of Special Requests 2-4	October 14, 2005
Testimony by Other Parties- Special Requests 2-4	November 4, 2005
Rebuttal Testimony - Special Requests 2-4	November 14, 2005
Evidentiary Hearings (if needed) - Special Requests 2-4	November 16-18, 2005
Opening Briefs - Special Requests 2-4	December 9, 2005
Reply Briefs - Special Requests 2-4	December 20, 2005
Proposed Decision- Special Requests 2-4	March 20, 2006
Testimony by Cal-Am in Support of Special Request 1	March 30, 2006
Commission Decision- Special Requests 2-4	April 20, 2006



Testimony by Other Parties- Special Request 1	June 19, 2006
Rebuttal Testimony - Special Request 1	July 10, 2006
Evidentiary Hearings (if needed) - Special Request 1	July 24-28, 2006
Opening Briefs - Special Request 1	August 25, 2006
Reply Briefs - Special Request 1	September 15, 2006
Proposed Decision- Special Request 1	November 14, 2006
Commission Decision- Special Request 1	December 14, 2006

## **5. Discovery**

Parties may commence discovery at any time. Parties shall meet and confer in an effort to resolve any discovery disputes in a mutually agreeable manner before pursuing formal resolution through the Resolution ALJ-164 procedures. If parties require a ruling on a discovery dispute by the Commission, they should raise any discovery disputes according to the procedure outlined in Resolution ALJ-164, a copy of which is available at [http://www.cpuc.ca.gov/PUBLISHED/FINAL\\_RESOLUTION/38787.PDF](http://www.cpuc.ca.gov/PUBLISHED/FINAL_RESOLUTION/38787.PDF).

## **6. Establishment of Service List**

We have not yet held a prehearing conference in this proceeding. Pending the taking of appearances at a prehearing conference, the current temporary service list is set forth in Attachment A to this ruling. All persons and organizations that formally filed a protest, response, or other motion have temporarily been placed on the service list for A.04-09-019 as appearances. In order to facilitate timely dispersal of information in this proceeding, I will establish a new service list for this application, prior to holding a prehearing conference. Those who are not currently on the temporary service list who wish

to be placed on the official service list must send me an email ([mlc@cpuc.ca.gov](mailto:mlc@cpuc.ca.gov)) by close of business on September 16, 2005 with the following information:

Name

Who you represent

Address

Email

Phone

Fax

Status requested: Appearance/State Service/Information Only

Description of Planned Participation [ONLY if seeking Appearance Status]

For administrative ease, please send only one email per party for all persons that you wish to have placed on the service list. Please keep in mind that it is my policy to place ONLY ONE representative for each party on the Appearance portion of the service list and everyone else on information only, so parties seeking to place multiple people on the service list should identify which individual will be their appearance.<sup>3</sup> This information will be used to develop a new service list for the proceedings. The official service list shall be posted on the Commission's web site, [www.cpuc.ca.gov](http://www.cpuc.ca.gov), as soon as practicable.

Appearance status will only be granted to those who indicate a plan to participate actively in the proceeding through presentation of testimony, cross examination, or submission of briefs, will be granted Appearance status. If you simply want to monitor what is occurring, Information Only status is for you.

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<sup>3</sup> Representatives of Cal-Am that were placed on the temporary service list as appearances should e-mail me to identify which ONE of their representatives will remain as the appearance.

Persons employed by the State of California will be placed on the State Service list.

In addition to the official service list, the Energy Division will establish an environmental review service list. If your interest in this proceeding relates to the environmental review of the proposed project, development of alternatives to the proposed project, or other aspects of the environmental review of this project, then you should be on the environmental review service list. All persons who have sent letters to the Director of the Energy Division have been added to the environmental review service list. To be added to the environmental review service list, contact Andrew Barnsdale at [bca@cpuca.ca.gov](mailto:bca@cpuca.ca.gov). If you are only on the environmental review service list, you will **NOT** automatically be placed on the service list for this application.

## **7. Filing and Service of Documents**

All formally filed documents must be filed in hard copy with the Commission's Docket Office. In order to ensure timely delivery of documents and conserve resources, we will follow the electronic service protocols adopted by the Commission in Rule 2.3.1 of the Commission's Rules of Practice and Procedure. This Rule requires service of documents to be performed electronically, in a searchable format, unless the appearance or state service list member did not provide an email address. If no email address was provided, service should be made by United States mail. Parties should provide concurrent e-mail service to ALL persons on the service list, including those listed under "Information Only." Any document that is filed **MUST** also be served electronically. Testimony is entered into the record through the evidentiary hearing process and for that reason is only served, **NOT** filed.

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: A.04-09-019- Coastal Water Project. In addition, the party sending the e-mail should briefly describe the attached communication, for example, Brief.

#### **8. Assistance in Participation in Commission Proceedings**

The Commission has a Public Advisor who can assist persons who have questions about the Commission's decisionmaking process and how to participate in the Commission's proceedings. You can contact the Public Advisor's office by mail at the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, by phone at (866) 849-8390, or by email at [Public.Advisor@cpuc.ca.gov](mailto:Public.Advisor@cpuc.ca.gov).

#### **9. Intervenor Compensation**

The prehearing conference in this matter has not yet been held. Pursuant to § 1804(a)(1), a customer who intends to seek an award of compensation should file and serve a notice of intent to claim compensation not later than 30 days after the date of the prehearing conference. A separate ruling will address eligibility

Therefore, **IT IS RULED** that:

1. A prehearing conference is scheduled for October 5, 2005 at the Commission headquarters in San Francisco.
2. At the October 5, 2005 prehearing conference, parties should be prepared to discuss the scope of the proceeding, schedule, and any other procedural matters necessary for the expeditious processing of the case.
3. Cal-Am shall prepare testimony as described herein in support of its Motion for Interim Rate Relief.

4. Parties shall meet and confer in an effort to resolve any discovery disputes in a mutually agreeable manner before pursuing formal resolution through the Resolution ALJ-164 procedures.

5. Those who are not currently on the temporary service list who wish to be placed on the official service list shall email me (mlc@cpuc.ca.gov) by close of business on September 16, 2005 with the following information:

Name

Who you represent

Address

Email

Phone

Fax

Status requested: Appearance/State Service/Information Only

6. One service list request shall be submitted on behalf of all representatives of a given party.

7. The electronic service protocols adopted by the Commission in Rule 2.3.1 of the Commission's Rules of Practice and Procedure shall govern this proceeding.

8. E-mail communication about this case shall include, at a minimum, the following information on the subject line of the e-mail: A.04-09-019- Coastal Water Project.

Dated September 6, 2005, at San Francisco, California.

/s/ MICHELLE COOKE

Michelle Cooke

Administrative Law Judge

**ATTACHMENT A**  
**SERVICE LIST**  
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**ATTACHMENT A**  
**SERVICE LIST**  
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**(END OF ATTACHMENT A)**

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring Testimony Regarding the Motion for Interim Rate Relief and Establishing a Schedule and Process for this Case on all parties of record in this proceeding and or their attorneys of record.

Dated September 6, 2005, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.